

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

PEGGIE GUESS,

Defendant.

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Civil Action No. **3:16-CV-3519-L**

MEMORANDUM OPINION AND ORDER

Before the court is the United States’ Motion for Default Judgment, filed March 21, 2017. After careful consideration of the motion, appendix, record, and applicable law, the court **grants** the United States’ Motion for Default Judgment.

I. Background

The United States (“Plaintiff” or “United States”) filed Plaintiff’s Complaint (“Complaint”) on December 28, 2016, against Peggie Guess (“Defendant” or “Guess”). This action arises from the failure of Guess to make the required payments on a loan she obtained on February 12, 1988.

The loan was disbursed for \$2,625 on February 22, 1988, at 8% interest per annum, and the loan was guaranteed by Texas Guaranteed Student Loan Corporation, and then reinsured by the Department of Education under loan guaranty programs authorized under Title IV-B of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071 *et seq.* (34 C.F.R. Part 682). After demand of payment by the United States, Guess defaulted on the loan on April 14, 1989.

Guess was served with a copy of the summons and Complaint on January 7, 2017. Guess did not file an answer in this case but did contact Plaintiff’s counsel regarding the suit on January

13, 2017. Plaintiff's counsel and Guess negotiated a draft consent judgment, which Plaintiff's counsel sent Guess on February 22, 2017. Guess never returned the consent judgment and has not taken any other action to defend the matter.

On February 6, 2017, the United States requested the clerk of court to enter a default against Guess, and the clerk entered a default against Guess the same day. Plaintiff now requests the court to enter a default judgment against Guess and award it damages and applicable interest as a result of her default.

II. Discussion

A party is entitled to entry of a default by the clerk of the court if the opposing party fails to plead or otherwise defend as required by law. Fed. R. Civ. P. 55(a). Under Rule 55(a), a default must be entered before the court may enter a default judgment. *Id.*; *New York Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996). The clerk of court has entered a default against Guess. The court also finds, based upon the information in the record, that Defendant is not a minor, incompetent person, or member of the United States military.

Guess, by failing to answer or otherwise respond to Plaintiff's Complaint, has admitted the well-pleaded allegations of the Complaint and is precluded from contesting the established facts on appeal. *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (citations omitted). Based on the well-pleaded allegations of Plaintiff's Complaint, which the court accepts as true, and the record in this action, the court determines that Guess is in default and that the United States is entitled to a default judgment and appropriate damages.

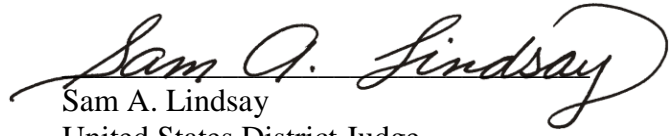
Based on the record, the total amount that Guess owed the United States as of November 1, 2016, was \$8,706.42 (\$2,821.19 in principal and \$5,885.23 in interest). Interest accrues on the principal at the rate of \$0.62 per day. The number of days from November 1, 2016, to March 21,

2017, is 141, which results in additional interest in the amount of \$87.42. Therefore, the total amount of judgment to which the United States is entitled is **\$8,793.84**.

III. Conclusion

For the reasons herein stated, the court **grants** the United States' Motion for Default Judgment, and Plaintiff is entitled to and shall recover from Defendant the amount of **\$8,793.84**. The court will enter judgment by separate document, as required by Federal Rule of Civil Procedure 58, in the amount stated in favor of the United States.

It is so ordered this 22nd day of March, 2017.


Sam A. Lindsay
United States District Judge